



Douglas A. Ducey
Governor

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY



Misael Cabrera
Director

November 22, 2019

Noemi Emeric Ford
Brownfields Program Manager
U.S. EPA, Region 9
75 Hawthorne
San Francisco, CA

R09-20-A-003

Re: FY20 Brownfields Community Wide Assessment Grant Letter, RFP
NO: EPA-OLEM-OBLR-19-05

Dear Ms. Emeric-Ford,

Applicant Identification: Arizona Department of Environmental Quality
1110 West Washington Ave
Phoenix AZ 85007

Funding Requested: Assessment Grant \$300,000.00

Contamination: Hazardous Substances

Locations: The State of Arizona including Tribal lands that fall within the Arizona's borders.

Property Information: N/A (Not a site specific grant)

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Population: 7,082,400 (2017 Census)

Other Factors:

Community Population is 10,000 or less	Yes	Arizona has 91 towns or cities, of those 47 have a population of 10,000 or less. In addition there several unincorporated communities with populations of 10,000 or less.
The Applicant is, or will assist, a federally recognized Indian tribe or US territory	Yes	The State Brownfields Program is engaged with the tribes and is willing to assist those who may lack the resources to manage a 128a grant.
The priority brownfields site(s) is impacted by mine scarred land	No	We will be working with towns with a strong mining industry presence however the actual properties will not necessarily be mine scarred land
The priority site(s) is adjacent to a body of water	No	
The priority site(s) is in a federally designated flood plain	Potentially	
The reuse of the priority site(s) will facilitate renewable energy from wind, solar or geothermal energy; or will incorporate energy efficiency measures	No	However there are opportunities for Brownfields to Brightfields (solar)
30% or more of the overall project budget will be spent on eligible reuse planning activities for brownfields sites(s) within the target area.	No	

We look forward to building upon the environmental good provided by previous Brownfield successes.

Sincerely,



Misael Cabrera, P.E.
Director

Arizona Department of Environmental Quality

FY20 Brownfields CWA Grant – Narrative Proposal – November 29, 2019

1. Project Area Description and Plans for Revitalization

1.a. Target Area and Brownfields

1.a.i. Background and Description of Target Area

Arizona has several challenges related to the definition of Brownfields. Three major areas that ADEQ Brownfields faces year over year is the impact of major industry, transportation infrastructure (interstate and highway systems) and tribal communities (the balance of inclusion and sovereignty)

Major industry in Arizona (mostly mining related) have a tremendous influence on rural communities in Arizona. If there is a change in the economy relative to that industry which a rural town is reliant on, it can have long lasting deep impacts on a community. The most notably are properties closing their doors or not having money to maintain said “doors”. Therefore communities are left with many vacant, abandon and/or blighted properties. There are over 30 towns or communities (unincorporated) that have been impacted by this scenario.

The transportation infrastructure changes with I-40, I-10, I-8 and several major state highways over the years have diverted traffic from travelling through many of Arizona’s historic towns that thrived on tourists, passerby’s and in general the transportation industries. These changes impacted the smaller communities and their “main” streets. This caused many businesses to close (including gas stations). Many of these towns have found ways to revitalize their main streets and attract travelers to their communities. Much of this can be attributed to past successful Brownfields projects in these communities. However there is still much work to be done, the good news is we know Brownfields revitalization projects work in these communities

The tribal communities have a tremendous struggle with blighted and under used properties. The complexity of cultural beliefs of tradition and technological advancements is in constant flux and differs among tribes and even within a tribe. The 22 Tribes in Arizona also differ in size and available resources. It should be noted that several of these tribes are also impacted by the mining industry issues listed earlier. Over the past few years ADEQ has successfully worked with the Colorado River Indian Tribe, Navajo Nation and San Carlos Apache Tribe on 3 separate Brownfields projects. Most of the tribes do not have the infrastructure or staff available to manage their own 128a Brownfields grant, therefore working through ADEQ’s 128a grant they are able to get the Brownfields funding they deserve, but this leaves ADEQ with fewer funds for the entire state, which is a major reason for asking for additional assessment funds.

1.a.ii. Description of the Priority Brownfields Sites

In Springerville, AZ the old Becker Motors which served as a Ford Dealership has sat idle for many years. The building on the property is suspect to contain asbestos and lead there is also concern with soil stains so a Phase I and II would be appropriate. Springerville has not expressed interest in using it for themselves but investors have inquired and have shied away due to the unknown risks.

In Holbrook, Arizona there are a couple of properties of interest, the Star Motel and the old Capital Gas Station. The Gas station had an old Leaking Underground Storage Tank (LUST) but was cleaned up and closed through the ADEQ LUST program. There is still an old building onsite that is potential for asbestos and lead. The Star Motel is also suspect for lead and asbestos. The town of Holbrook has stated that both sites have investment potential and feel the environmental assessment would get the properties sold.

In Mohave County (Kingman) there are a couple of sites, the old county courthouse and the juvenile detention center. A new courthouse is being built on an adjacent property but the county wants to refurbish and keep this historic building for county services. Due to its' age though there is potential for lead and asbestos. Due to the new Courthouse building and added services there will be a demand for additional parking. North of these properties is an old juvenile detention center that is out of service. The building needs an asbestos and lead survey prior to demolition.

In Safford, there is a building that once housed a dry cleaning operation. Due to its operation prior to environmental regulations there is concern for contamination in the ground and the building itself is old enough to be concerned for asbestos and lead as well.

The San Carlos Apache Tribe have an airport under their jurisdiction. It has been underused for quite some time and several buildings are old and dilapidated. There is an opportunity to grow and expand this airport which could bring added business growth to the area serving towns like Globe, Miami, San Carlos, and Safford. The building in disrepair would need an asbestos and lead survey and Phase I.

In Pinetop-Lakeside there is a property known as Walking Down Ranch. This facility is used to provide temporary housing for veterans and help them get back on their feet. The Non-profit is currently leasing the property and would like to purchase the property outright. The Site would need a Phase I and Asbestos and Lead survey.

There are additional potential sites described in section 3.a. as well.

1.b. Revitalization of the Target Areas

1.b.i. Reuse Strategy and Alignment with Revitalization Plans

The majority of the sites across Arizona have identified reuse and revitalization plans. The majority of sites are to acquire properties to increase services available to the local community. Most of these communities are small and rural, therefore there are lots of opportunities to increase services available in their community instead of sending them to another town. These target areas also have Opportunity Zones within their communities. Along with community needs, the ability to draw tourism dollars into their towns is big, but no one wants to stay at a bed and breakfast just to stare out the window to a broken down blighted property across the street. Then you have towns like Jerome and Superior who have places to visit but limited places to stay.

1.b.ii Outcomes and Benefits of Redevelopment Strategy

Due to the number of communities involved the range of reuse is wide. For some it is getting additional property to add community services like job training, daycare, clinics, gov't office space and senior services. For some it is the removal of blight to create a green space and parks. Others it is to rehabilitate an older structure to become living space for residents or travelers. At the end of the day, the big win is property tax and sales tax dollars being generated which will help fund projects within these communities. This allows the communities to build a brand and a foundation to attract investors and businesses which in turn builds resiliency and dependency from any singular job market (like mining).

1.c. Strategy for Leveraging Resources

1.c.i. Resources Needed for Site Reuse

Many of the communities listed have or will seek out USDA and HUD funding along with general fund and bond measures to fund projects. Also the ADEQ Voluntary Remediation Program will be able to assist owners with efficient cleanups if deemed necessary after assessment. ADEQ will be better leveraged to provide more site specific clean up money from the 128a grant since the goal is to use this grant for assessment activities.

Some sites/areas already identified that will help facilitate existing infrastructure from the assessment funds have been identified under section 3.a.

1.c.ii. Use of Existing Infrastructure

Most of the sites described in 1.a.ii and 3.a will be reusing the existing infrastructure, there are a couple of properties where demolition will occur.

2. Community Need and Engagement

2.a. Community Need

2.a.i. The Community's Need for Funding

The communities impacted by the mining industry, many of their services were provided (funded) by the mining company. Now as these towns work to fill in this void of services such as provide more healthcare options, job training, higher education there is a need to utilize current infrastructure instead of building new. However city/town staff have limited capacity or expertise in addressing environmental issues. These issues are compounded when the communities are unincorporated and have to rely on county and non-profits.

2.a.ii. Threats to Sensitive Populations

Additional support on the challenges faced by rural communities can be seen in Table 1. This provides a basis for correlating the potential positive economic, cultural and environmental impact of this grant on sensitive populations throughout the state:

Table 1 - Demographic Comparisons of Rural Populations

	AZ Rural Counties ¹	Statewide	National
Population ²	1,508,549	6,809,946	321,004,407
Unemployment ²	7.6%-16.3%; avg. - 10.2%	7.1%	6.6%
Poverty Rate ⁴	19.3%	17.0%	14.6% ³
Percent Minority ⁵	49.4%	44.4%	38.5%
Median Household Income ³	\$44,615	\$53,510	\$57,652
1. Defined by Arizona Revised Statutes §49-837(C) as a county with <500,000 people (all Arizona counties except Maricopa and Pima; total of 13 counties). 2. U.S. Census Bureau, 2013-2017 American Community Survey 5-Year Estimates 3. U.S. Census Bureau, 2017 American Community Survey 1-year Estimates 4. Poverty Status in the Past 12 Months (2017), U.S. Census Bureau, 2013 -2017 American Community survey 5-Year Estimates 5. Calculated by Subtracting % Non-Hispanic White Alone from 100%, U.S. Census Bureau, 2017 American Community Survey 1-year Estimates			

Poverty rates for Arizona hover around 17% and when we breakdown the individual counties on the rural populations as seen in the table 2, poverty can jump to as high as 35.9% (Apache County).

Table 2

Geographic Area	Percent	Geographic Area	Percent
Arizona	17.0	Coconino County	21.0
Apache County	35.9	Cochise County	18.1
Gila County	21.9	Graham County	21.4
Greenlee County	11.5	La Paz County	19.7
Mohave County	18.6	Navajo County	29.1
Yavapai County	14.7	Santa Cruz County	21.8

Source: U.S. Census Bureau, 2013-2017 American Community Survey 5-Year Estimates

The U.S. News and World Best States 2019 Report, informed, in part, by the McKinsey and Company Leading States Index, the High-school graduation rate - Arizona ranks 45th at 77.4%, the Income gap by race – per capita income of minority/majority in 2016 was 49.85%, well below the national average of 40.4%, ranking Arizona 45th in the nation.

2.b. Community Engagement

2.b.i. Project Partners

Arizona communities have successfully earned several competitive Brownfields grants (NACOG, Cochise County, White Mountain Apache) and we expect a few more will be awarded this year. Knowing that these communities will be performing assessments, ADEQ is predicting most of their 128a site specific money will need to be available for cleanup activities, leaving the program short on assessment funds. By having this grant available for assessments and focusing the 128a grant on cleanup for site specific work, will allow the state to support EPA's Brownfields Program and help accelerate clean ups instead of those grantees waiting to get

awarded a competitive clean up grant that isn't guaranteed. Also as mentioned earlier the tribal communities continue to deal with blighted properties which leads to other problems in these communities. The tribes are willing to do Brownfields projects but lack the personnel to manage their own grant.

2.b.ii. Project Partner roles

The communities with Brownfields grants will be identifying properties and prioritizing sites. It is expected that the number of sites will exceed the amount of funding and these communities will seek both assessment and cleanup funds from the State Brownfields funds.

ADEQ's Brownfields Program is engaged with several towns and most of the counties. We work together in identifying blighted and abandon properties. The counties through their Assessor and Treasury office supply us with information on properties no longer paying taxes and their code enforcement departments are able to identify blighted properties. Together this has allowed ADEQ Brownfields to build up a 3 year inventory of potential Brownfields projects.

2.b.iii. Incorporating Community Input

ADEQ has a strong outreach program targeted to the Arizona communities. ADEQ had over 60 outreach activities in FY19 (state) ranging from presentations at conferences, to one on one site visits to explain how Brownfields works and when appropriate promote the competitive EPA grant program. These meetings may involve key community leaders (County Supervisors, Mayors, Town Managers, Community Development and Economic Coordinators). In FY2019 these events reached approximately 1800 people with direct contact. Outreach work has continued into FY20 (state) working with communities to apply for competitive Brownfields grants. These community partners have always been good with presenting the projects at monthly board meetings and when necessary having community outreach events to gather public input.

3. Task Descriptions, Cost Estimates & Measuring Progress

3.a. Description of Tasks and Activities

3.a.i. Project Implementation

There are several projects that have inquired with ADEQ through the 128a program, however as mentioned earlier, the 128a program will be putting an emphasis on supporting cleanup funding and seek assessment efforts through this grant. The following would be seeking a Phase I, Phase II and/or asbestos and lead survey:

Ford Dealership, old Becker Motors, White Mountain Motors, INC. Springerville, AZ
Phase I, Phase II and Asbestos and Lead Based Paint Survey

Capital Gas, Holbrook, AZ
Phase I, Asbestos and Lead Survey

Mohave County Courthouse and Detention Center, Kingman AZ
Asbestos Survey Update

Safford Cleaners, Safford, AZ
Phase I, Phase II and Asbestos Survey

VFW, Town of Superior
Asbestos and Lead Based Paint Survey

Airport Building, San Carlos Apache Tribe
Phase I, Asbestos and Lead Surveys
Hawley Lake Cabins, White Mountain Apache Tribe
Asbestos and Lead Surveys

Triple X Café Building, Superior, AZ
Phase I, Asbestos and Lead Survey

Abandon Building, Winkleman, AZ
Asbestos Survey

Hayden Residential Homes, Hayden AZ
Asbestos Survey

Abandon Building, Patagonia, AZ
Phase I & Phase II

Walking Down Ranch, Pinetop, AZ
Phase I and asbestos survey

Coconino County Public Works Department, Flagstaff AZ
Asbestos survey

ADEQ will be able to leverage its' resources (infrastructure) and staff to perform these tasks allowing the majority of funds to go directly to assessments. (See Cost Estimates table)

3.a.ii. Anticipated Schedule

Year One: 5 – Phase I's, 5 – Asbestos and Lead Surveys

Year Two: 1 – Phase I, 2 – Phase II, 5 Asbestos and Lead Surveys

Year Three – 1 Phase II

3.a.iii. Task Activity Lead

Travis Barnum – ADEQ Brownfields Coordinator, there will also be environmental consultants contracted to lead individual projects (See 4.a.iii)

3.a.iv. Outputs

ADEQ plans to perform the following with this grant:

Phase I – 6

Phase II – 3

Asbestos and Lead Surveys – 10

3.b. Cost Estimates

3.b.i. Development of Cost Estimates

Please see attached EPA Approved Indirect Cost Proposal. All Professional & Outside services have a collection rate of 32.49% of vendor spending up to a cap of \$25,000 (\$8,122.50 collections) per vendor per fund. Due to the vendors from the above listed projects being utilized concurrently by other grants within this same grant fund, the indirect collections have been discounted from \$8,122.50 per vendor down to \$8,000 per vendor. ADEQ's goal is to spend as much money on site specific work. Since ADEQ already has the infrastructure to manage Brownfields, we do not see a need to draw direct costs beyond the contractor/vendor costs with this grant.

3.b.ii. Application of Cost Estimates

Budget Categories		Project Tasks			
		Phase I	Phase 2	Asbestos and Lead Survey	Total
Direct Costs	Personnel	\$ -	\$ -	\$ -	0
	Fringe Benefits	\$ -	\$ -	\$ -	0
	Travel	\$ -	\$ -	\$ -	0
	Equipment	\$ -	\$ -	\$ -	0
	Supplies	\$ -	\$ -	\$ -	0
	Contractual (See list of Projects within Project Narrative, Task Descriptions (3.a))	\$ 60,000	\$ 140,000	\$ 60,000	\$ 260,000
	Other	\$ -	\$ -	\$ -	0
Total Direct		\$ 60,000	\$ 140,000	\$ 60,000	\$ 260,000
Indirect Costs* (5 Vendors with estimated collection rate of \$8,000 per vendor)		\$ 9,230	\$ 21,540	\$ 9,230	\$ 40,000
Total Budget (Total Direct Costs + Indirect Costs)		\$ 69,230	\$ 161,540	\$ 69,230	\$ 300,000

*ADEQ Indirect Collection Methodology: see section 3.b.i. above.

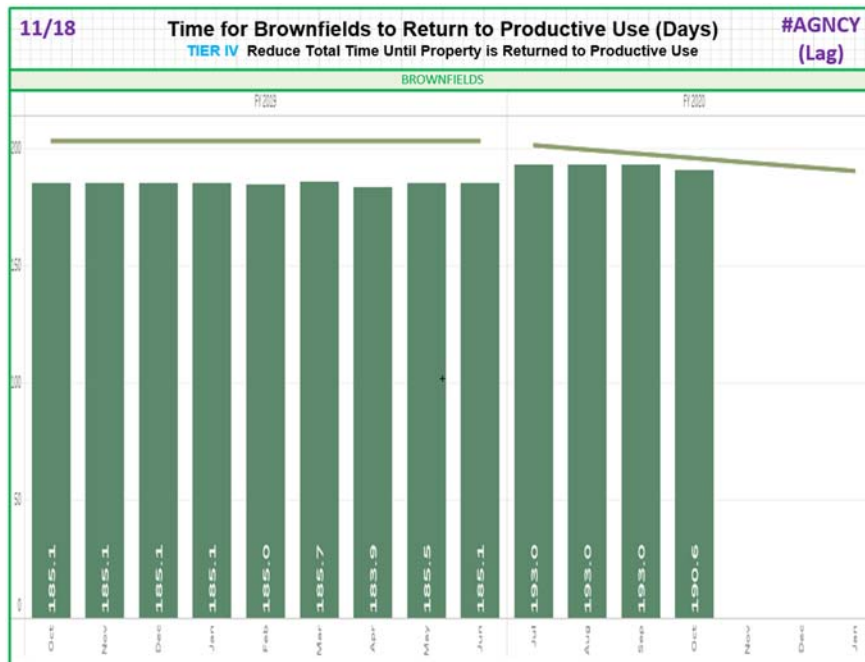
3.b.iii. Funds Allocated Toward Environmental Site Assessments

ADEQ's infrastructure of a current Brownfield's Program will allow nearly 100% spend of the \$300,000 to go directly to environmental site assessments.

3.b. Environmental Results

3.c. Measuring Environmental Results

ADEQ has implemented the LEAN principles on our Brownfields Processes, this has allowed us to better track our progress and catch problems early. It has also allowed us to reduce our turnaround time on Brownfields projects from application to closure. Below is a chart showing our most recent metric.



Back in FY16 the average turnaround time was 246 days. Year over year there has been a reduction in time and currently we are around 190 days with a goal of 180 days. ADEQ maintains a daily flow board that tracks the progress of each project, there are twelve milestone steps that are tracked, starting with step one – application received and ending with step twelve closure report to EPA/ACRES update. In addition to this tracking, ADEQ also stays in contact with previous completed Brownfields projects to provide updates to ACRES and our website on the impacts these projects have in their respective communities. When possible these “success” stories are shared with media, elected officials and EPA to help continue the support of funding of the Brownfields program.

4. Program Capability and Past Performance

4.a. Programmatic Capability

4.a.i. Organizational Structure

The Brownfields Program is housed within the Waste Programs Division under the Remedial Projects Section. The Remedial Projects Section oversees Federal Superfund Sites, State Superfund sites (WQARF – Water Quality Aquifer Revolving Fund), Voluntary Remediation and Declaration of Environmental Use Restrictions (DEUR). These programs are responsible for overseeing the evaluation and cleanup of contaminated properties, including military facilities. The programs work together to bring properties back to economic reproductive use while maintaining the safety of human health and the environment.

4.a.ii. Description of Key staff

Section Manager (Tina LePage) - who is accountable for brownfields and voluntary agreements and ensure management support of all brownfield initiatives.

Unit Manager (Scott Green) - who is accountable for brownfields and voluntary agreements and ensure management support of all brownfields initiatives.

Brownfields Coordinator (Travis Barnum) - who is responsible for brownfields grants, infrastructure (brownfields guidance, templates, tools, website etc.), and external affairs. This person also performs statewide outreach and marketing functions and coordinates with ADEQ's Communications and Community Liaisons to serve as stewards and ombudsmen for Brownfields, disseminating updates to internal and external stakeholders.

Business & Finance (Brett James) – who is accountable for managing the grants.gov portal and adherence to the grant guidelines. He has a team that helps review and process payments to the vendors who conduct the environmental assessments.

4.a.iii. Acquiring Additional Resources

ADEQ has an Arizona Brownfields Environmental Site Assessment (ABESA) Contractors list. There are five companies on the list, all with extensive backgrounds in performing environmental work and more specifically Brownfields work. They understand the guidelines and compliance requirements for Phase I/II work. These companies have also played a key role in bringing projects to the Brownfields program.

Internally, the Volunteer Remediation Program (VRP) provides technical support on document reviews and helps take on Brownfields sites that may have been eligible for assessment but not for cleanup. Our Business team which is led by Brett James also provides resource expertise with managing the accounting and compliance requirements for grants.

4.b. Past Performance and Accomplishments

4.b. Currently or has ever received an EPA Brownfields Grant

ADEQ is proud of the resurgence of the 128a program over the past 5 years. From FY15 to FY19 ADEQ has completed 65 site specific actions (assessments and cleanups) through awards totaling approximately \$1,850,000 over that time. ADEQ has always complied with the grant requirements with on time quarterly and annual reporting and providing AAI compliance reporting when applicable. ADEQ has been successful in awarding all the site specific grant monies, however there was a small amount of administrative monies not spent in FY18. This was due to changes in personnel (vacant) late in the fiscal year and ADEQ was unable to spend down that administrative amount. Through the LEAN process improvement principles, this issue was analyzed and counter measures have been put in place to better monitor and avoid the issue from happening again. In fact FY19, ADEQ was able to get 100% spend on the administrative amount.

Threshold Criteria Response

Community-wide Application

Applicant Eligibility: ADEQ was established by the Arizona Legislature as a cabinet-level state agency in 1987, pursuant to Arizona Revised Statute §49-102.

Community Involvement: ADEQ has a strong outreach program targeted to the Arizona communities. ADEQ had over 60 outreach activities in FY19 (state) ranging from presentations at conferences, to one on one site visits to explain how Brownfields works and when appropriate promote the competitive EPA grant program. The table below summarizes the activities that took place in FY2019 related to outreach activities.

Event	Date	Type	Where	# of Attendees	Presentation Given
Potential Project - Jerome Hotel	05/24/18	Site Visit	Jerome	2	N
Arizona Forward - Rio Salado Project Presentation - ASU	05/31/18	Conference	Phoenix	200	N
Keeping AZ Beautiful / Rural Policy	06/08/18	Meeting	Phoenix	3	N
Potential Project - Town of Superior	06/11/18	Site Visit	Superior	3	N
Potential Project - Town of Winslow	06/13/18	Site Visit	Winslow	3	N
Potential Project - Walking Down Ranch	06/14/18	Site Visit	Pinetop	2	N
Potential Project - Hawley Cabins	06/14/18	Site Visit	Hawley Lake	4	N
Potential Project - Old Becker Motors	06/14/18	Site Visit	Springerville	3	N
Promoting BF Program - Town of Eager	06/14/18	Meeting	Eager	3	Y
Post Project Follow up Pinetop Old Main Bldg	06/14/18	Meeting	Pinetop	3	N
Potential Project - Town of Superior	06/25/18	Meeting	Superior	7	N
Potential Project - San Carlos Apache Tribe	06/25/18	Site Visit	San Carlos	3	N
Potential Project - Mohave County	06/26/18	Site Visit	Kingman	3	N
Potential Project - City of Phx	07/11/18	Meeting	Phoenix	2	N
Promoting BF Program - Az Women's Environlink	07/17/18	Meeting	Tempe	10	N

Event	Date	Type	Where	# of Attendees	Presentation Given
SAEMS Luncheon (Tucson)	07/25/18	Meeting	Tucson	25	N
Potential Projects - City of Tucson/South Tucson/Pima County	07/25/18	Meeting	Tucson	7	Y
AZ Forward Education Advocacy Committee	08/02/18	Meeting	Phoenix	13	N
Rural Policy Forum	8/09-8/10	Conference	Wickenburg	300	Y
Potential Project - Duncan Gin	08/14/18	Site Visit	Duncan	4	N
Potential Project - Wickenburg Glider Academy	08/16/18	Site Visit	Wickenburg	2	N
AZ Forward Healthy Communities Sustainable Growth	08/28/18	Meeting	Phoenix	10	N
EPA/SCAT 128a Presentation	08/29/18	Meeting	San Carlos	7	N
AZ Government Safety Association	09/06/18	Meeting	Mesa	40	Y
City of Yuma / Heritage meet/greet	09/19/18	Meeting	Yuma	8	N
AZ Forward Healthy Communities Sustainable Growth	09/25/18	Meeting	Phoenix	10	N
Keeping AZ Beautiful / Planning	09/27/18	Meeting	Phoenix	5	N
Wickenburg Glider Academy	09/28/18	Meeting	Wickenburg	3	N
Tucson Association of Realtors	10/2//18	Meeting	Tucson	42	Y
NACOG Luncheon	10/04/18	Meeting	Flagstaff	20	Y
Tribal Relations/EPA Reg 9	10/10/18	Meeting	Phoenix	3	N
Prospective Purchaser - Ajo	10/11/18	Site Visit	Ajo	2	N
Kadampa Meditation - BF Project	10/17/18	Site Visit	Williams	3	N
AZ Forward Healthy Communities Sustainable Growth	10/23/18	Meeting	Phoenix	12	N
Rural Outreach Roadshow (planning)	10/23/18	Meeting	Phoenix	4	N

Event	Date	Type	Where	# of Attendees	Presentation Given
Belmont Hotel, Town of Superior	11/01/18	Site Visit	Superior	2	N
Clarkdale – multiple properties – potential BF sites	11/6/2018	Site Visit	Clarkdale	3	N
Former Jerome Hotel, Jerome	11/6/2018	Site Visit	Jerome	2	N
Yavapai County office in Prescott –	11/6/2018	Meeting	Prescott	3	N
Brownfields presentation to Colorado River Indian Tribe (CRIT)	11/7/2018	Meeting	Poston	8	Y
Town of Parker	11/7/2018	Meeting	Parker	1	N
ASU/Rio Reimagined discuss BF opportunities	11/9/2018	Meeting	Phoenix	4	N
Hayden/Winkleman – Hayden Motel	11/19/2018	Site Visit	Winkleman	3	N
Brownfields presentation to Rio Reimagined Project working group	12/5/2018	Meeting	Mesa	20	Y
Town of Show Low	12/12/2018	Site Visit	Show Low	7	N
Regional Outreach Forum planning for 2019	12/18/2018	Meeting	Phoenix	4	N
Gila County Board Meeting	1/8/2019	Meeting	Globe	30	N
Tribal Relations Legislative Day	1/16/2019	Conference	Phoenix	200	N
San Carlos Apache Tribal	1/23/2019	Site Visit	San Carlos	12	N
Pinal Partnership Monthly Meeting	1/24/2019	Meeting	Florence	100	N
Ak-Chin Tribe	1/24/2019	Site Visit	Pinal Airpark	2	N
What Works in AZ /Vitalyst Foundation	1/31/2019	Conference	Phoenix	35	Y
Hayden/Winkleman – Hayden Motel	2/11/2019	Site Visit	Hayden	6	N
Rio Reimagined Project Working Group	2/12/2019	Meeting	Phoenix	30	N
AAED - Bringing New Life to Your Community	2/12/2019	Conference	Phoenix	100	N
PAG - EPAC	3/1/2019	Meeting	Tucson	40	Y
Navajo Western Region Board Meeting	3/16/2019	Meeting	Tonalea	50	Y

Event	Date	Type	Where	# of Attendees	Presentation Given
Greenlee County Economic Forum	3/22/2019	Conference	Clifton	30	Y
SRPMIC Earth Day Event	4/6/2019	Conference	Scottsdale	200	N
FourSquare Church - Cottonwood	4/9/2019	Site Visit	Clarkdale	2	N
Pinal Partnership Monthly Meeting	4/12/2019	Meeting	Casa Grande	120	N

Approximately 1800 people were directly reached by these events and 12 complete Brownfields program presentations were given.

Outreach work has continued into FY20 (state) working with communities to apply for competitive Brownfields grants.

Assessment Grant Status: ADEQ has a 128a Brownfields grant program in place and in good standing. ADEQ does not have any other open (specifically Assessment) Brownfields grants.

Douglas A. Ducey
Governor



Andy Tobin
Director

ARIZONA DEPARTMENT OF ADMINISTRATION

OFFICE OF THE DIRECTOR
100 NORTH FIFTEENTH AVENUE • SUITE 403
PHOENIX, ARIZONA 85007
(602) 542-1500

November 18, 2019

To Whom It May Concern:

Brett James, Project Lead with the Arizona Department of Environmental Quality, provided notice of application for grant funding to Arizona's SPOC on November 18, 2019 for review per E.O. 12372.

- US0079A National Brownfields Program (Part A): Assessment Grants - FY 2020, which enables the Brownfield Assessment Grant project, has been reviewed and assigned SAI # EVA-20-005.

Thank you in advance for your assistance with and consideration of this application. If there is any additional information you require concerning Arizona's E.O. 12372 review process, please feel free to contact me at Matthew.Hanson@azdoa.gov or (602) 542-7567.

Sincerely,

Matthew D. Hanson, CGMS
Assistant Director
Office of Grants and Federal Resources
Arizona Department of Administration



Douglas A. Ducey
Governor

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY



Misael Cabrera
Director

NON-DISCRIMINATION POLICY

In recognition of its legal and moral obligations, the Arizona Department of Environmental Quality (ADEQ) hereby commits itself to a policy of non-discrimination as follows:

1. The ADEQ shall not discriminate on the basis of race, color, religion, sex, age, disability, national origin, or any other characteristic protected by law. Equal Opportunity applies to such employment practices as hiring, upgrading, demotion, transfer, recruitment, advertising, layoff, termination, rates of pay or other forms of compensation, selection for training, job assignments, accessibility, working conditions and special duty details.
2. All ADEQ management personnel shall actively support recruitment and career development programs to ensure equitable representation of minorities, females, seniors, LGBT and individuals with disabilities, special disabled veterans and Vietnam Era veterans in all job categories and pay grades.
3. The ADEQ shall not tolerate discrimination in the agency as it creates an intimidating, degenerating, hostile and offensive working environment. Each employee has an affirmative duty to maintain a workplace free of harassment, intimidation, discrimination. ADEQ prohibits retaliation against any individual who reports discrimination or harassment or participates in an investigation of such reports.
4. The Department will post the Non-Discrimination Policy throughout departmental facilities.
5. All written bid announcements, request for proposals, employment announcements, requests for applications, program brochures, literature and general solicitations shall include the phrase:

"AN EQUAL EMPLOYMENT OPPORTUNITY AGENCY"

The ADEQ is committed to ensuring that all its employees can work in an environment free from harassment, discrimination and retaliation.

As Director of the ADEQ, I am committed to the principles of Equal Employment Opportunity. To ensure the dissemination and implementation of the 2016 Equal Opportunity Plan throughout all levels of the Department, Chris Weakland, CHRO, shall serve as the Equal Opportunity Administrator for ADEQ, 602-771-5665, Weakland.chris@azdeq.gov.

This policy is accessible to employees at:

- <http://intranet.adeq.lci/policy/download/0022.001NondiscriminationPolicy.pdf>

Main Office
1110 W. Washington Street • Phoenix, AZ 85007
(602) 771-2300

Southern Regional Office
400 W. Congress Street • Suite 433 • Tucson, AZ 85701
(520) 628-6733

www.azdeq.gov
printed on recycled paper

- Main bulletin board in the lobby and in the Human Potential Office at ADEQ, 1110 W. Washington, Phoenix, AZ
- Main bulletin board in the lobby at ADEQ, 400 West Congress Street, Suite 433, Tucson, AZ, and 4040 E. 29th Street, Tucson, AZ.



Misael Cabrera, Director

2/25/2016

Date

Any employee who has any questions or concerns about this policy should talk with the Chris Weakland at 602-771-5665 or the Governor's Office of Equal Opportunity, <http://eo.azgovernor.gov>, 602-542-3711.

Attachment to EPA Form 4700-4 (Rev. 06/2014) for the Arizona Department of Environmental Quality, Annual Submission of EPA Certifications and Assurances for the period from July 1, 2019 through June 30, 2020.

- IX. Does the applicant/recipient have a policy/procedure for providing access to services for persons with limited English proficiency? (40 C.F.R. Part 7, E.O. 13166)
Yes, ADEQ has a dual (Spanish and English) language general information line and complaint line, and maintains a list of Spanish speaking employees and respective business telephone numbers to assist those with limited English proficiency.
- X. If the applicant/recipient is an education program or activity, or has 15 or more employees, has it designated an employee to coordinate its compliance with 40 C.F.R. Parts 5 and 7? Provide the name, title, position, mailing address, e-mail address, fax number, and telephone number of the designated coordinator.
Robert Rivera, Human Resources Manager, shall serve as the Equal Opportunity Administrator for the Arizona Department of Environmental Quality.
Any employee who has any questions or concerns about these policies should talk with Agency Personnel, Human Resources or the Governor's Office of Equal Opportunity, <http://azgovernor.gov/eop/index.asp> or (602) 542-3711.
- XI. If the applicant/recipient is an education program or activity, or has 15 or more employees, has it adopted grievance procedures that assure the prompt and fair resolution of complaints that allege a violation of 40 C.F.R. Parts 5 and 7? Provide a legal citation or Internet address for, or a copy of, the procedure.
<http://eo.azgovernor.gov/eo/complaint-process>



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

EXTERNAL CIVIL RIGHT COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

July 7, 2017

Return Receipt Requested

Certified Mail# 70153010000112676017

Misael Cabrera, P.E.
Director
Arizona Department of Environmental Quality
1110 West Washington Street
Phoenix, AZ 85007

Re: Closure of Administrative Complaints, EPA File Nos. 03R-07-R9 and 11R-98-R9

Dear Director Cabrera:

This letter is to advise you that the U.S. Environmental Protection Agency's (EPA) External Civil Rights Compliance Office (ECRCO) is resolving and closing, as of the date of this letter, administrative complaint 03R-07-R9 and 11R-98-R9 against the Arizona Department of Environmental Quality (ADEQ). The complaints generally alleged that ADEQ violated Title VI of the Civil Rights Act of 1964, as amended, 42 United States Code 2000d et seq. (Title VI) and the EPA's nondiscrimination regulation found at 40 Code of Federal Regulations (C.F.R.) Part 7.

EPA ECRCO is responsible for enforcing several federal civil rights laws that prohibit discrimination on the bases of race, color, national origin (including limited-English proficiency), disability, sex and age in programs or activities that receive federal financial assistance from the EPA.

Closure of Administrative Complaint, EPA File Number 03R-07-R9

The complaint in EPA File Number 03R-07-R9 was filed on March 28, 2007, by Don't Waste Arizona and Concerned Residents of South Phoenix under Title VI and EPA's implementing regulation at 40 C.F.R. Part 7. The complaint alleged ADEQ and the Maricopa County Air Quality Department (MCAQD)¹ discriminated against Hispanic and African American residents of South Phoenix through the operation of their Clean Air Act permitting programs. Specifically, the complaint alleged that "ADEQ has issued permits for portable sand and gravel outfits (aggregate mining), cement batch plants, and asphalt batch plants to operate in Maricopa

¹ The allegations against MCAQD are addressed separately and not within this letter.

County and especially in areas . . . adjacent to an overwhelmingly” Hispanic and African American “population that is disproportionately and adversely affected by documented high levels of particulate matter pollution. The ADEQ yet has failed to administrate, manage and/or maintain a system whereby these same portable permitted facilities are monitored, including a systematic lack of inspections of these permitted facilities and a systematic lack of emissions reports of these permitted facilities.”²

On May 27, 2008, ECRCO accepted the following for investigation: Whether ADEQ violated Title VI and EPA’s nondiscrimination regulations by failing to inspect certain permitted facilities and failing to require emissions reports of these same facilities. As discussed below, ECRCO finds insufficient evidence of current noncompliance with Title VI and EPA’s implementing regulation. Accordingly, EPA File Number 03R-07-R9 is closed as of the date of this letter.

Pursuant to the investigation of the allegation, EPA examined how ADEQ’s portable source program is implemented (with respect to permitting and compliance) when subject sources are located in Maricopa County. Specifically, EPA examined whether ADEQ has established and is implementing procedures that clearly articulate that ADEQ, as the permitting agency, is primarily responsible for all inspections of these portable sources, including verification of proper emissions reporting, where applicable, how complaints referred by other agencies are addressed, and for tracking the physical location of such portable sources throughout a given permit term.

During its investigation, ECRCO gathered and reviewed information relevant to the complaint. This information included the complaint submitted to ECRCO, and information submitted by ADEQ on October 26, 2009, September 21, 2010, and September 8, 2015. In addition, EPA held meetings with ADEQ on October 19, 2016 and February 24, March 16 and June 21, 2017, to obtain additional information.

ECRCO found that ADEQ has jurisdiction over portable sources that operate in multiple counties or in a county without a local air pollution control program.³ ECRCO also found that MCAQD has jurisdiction over portable equipment operated solely in that county.⁴ However, despite the recognized jurisdictions of ADEQ and MCAQD, ECRCO found that there was no written agreement between the two agencies as to how complaint response and enforcement was coordinated (*e.g.*, for portable sources under ADEQ jurisdiction but operating within Maricopa County).

During the course of ECRCO’s investigation, and to address this concern, ADEQ, in coordination with MCAQD, developed the Air Quality Complaint Inspection Referral Procedure, with both agencies as signatories. The Procedure clearly describes each agency’s authority and responsibilities in dealing with portable equipment inspections when there are jurisdictional

² Complaint letter received by EPA on March 28, 2007, EPA File No. 03R-07-R9, pp. 1-2 & 6; December 6, 2007 Complainants’ Response to EPA Request for Clarification, p.6.

³ Arizona Revised Statutes, Title 49, Chapter 1, Article 1, Sections 49-107; 40-401.01; 49-402. Also see ADEQ website at: <http://legacy.azdeq.gov/enviro/air/permits/assist.html>.

⁴ Maricopa County Air Pollution Control Regulation II, Section 410.1.

issues involved. Notably, for example, the Procedure provides step-by-step instructions for field staff to follow when they come upon a possible portable source violation that is not under their agency's jurisdiction. The Procedure covers jurisdictional determinations, inspections and information gathering, the process for conducting visible emissions observations, referral procedures, and how to follow up with the other agency involved.⁵

To further support effective enforcement communication between ADEQ and MCAQD, ADEQ has implemented an electronic permitting system (MyDEQ) in response to EPA's Cross-Media Electronic Reporting Rule (CROMERR).⁶ In July 2016, ADEQ began using MyDEQ to address the types of portable sources identified in the complaint, thereby replacing the previous paper permitting and tracking system for all portable source permittees.⁷ In implementing this system, ADEQ provided access to MCAQD and other local government agencies. The MyDEQ system uses a series of questions designed to ensure that ADEQ and MCAQD receive accurate and timely information about location, equipment, and equipment operation from permittees.

MyDEQ addresses issues regarding inspections and emissions reporting which were also raised in the complaint. Under the MyDEQ system, sources report their locations electronically, thereby allowing inspection staff to readily locate and identify equipment. This is superior to a paper-based system, especially when dealing with portable equipment, which can be moved frequently and in and out of different jurisdictions. MyDEQ also allows the source to submit equipment-specific and emissions information, such as equipment type, capacity, make and model, serial number, date of manufacture, hours of operation, and tonnage of throughput.

MyDEQ further ensures that the facility receives a permit from the correct agency. For instance, if the permittee is moving, a compliance certification is required to ensure that the source is meeting its permit terms. The permit is then issued electronically and ADEQ permit and compliance staff are electronically notified. ADEQ is also electronically notified regarding annual compliance certifications and permit terminations. If a particular portable source will operate for the duration of its permit term solely in Maricopa County, it must obtain a permit from MCAQD.⁸ If it will operate in Maricopa County in addition to other counties during its permit term, it must obtain a permit from ADEQ. State-issued permits for sources located in Maricopa County need to meet the air quality requirements established by Maricopa County (which are more stringent than elsewhere in the State).

The implementation of the Air Quality Complaint Inspection Referral Procedure and the implementation and availability of the MyDEQ system indicate that ADEQ's portable source enforcement program has changed since the South Phoenix complaint was filed. In light of the changes to ADEQ's programs and activities, as well as commitments ADEQ has made during

⁵ ADEQ reported that it has an inspector in the field by 4 a.m. with the ability to adjust his schedule to cover complaints involving night time operations of permitted sources. In addition, ADEQ can require other inspectors to adjust their schedules if a complaint requires it.

⁶ CROMERR is an EPA rule that establishes standards for information systems that receive reports and other documents electronically under EPA-authorized programs. More detail on the CROMERR program can be found at <https://www.epa.gov/cromerr>.

⁷ Additional information about MyDEQ can be found at: <http://www.azdeq.gov/mydeq/home>.

⁸ MCAQD Rule 200 § 410.1.

the course of this investigation, ECRCO finds insufficient evidence of current non-compliance with Title VI or EPA's Title VI regulation. Therefore, ECRCO is closing the complaint as of the date of this letter.

ADEQ's Non-Discrimination Program

During the course of this investigation, as is ECRCO's current practice, ECRCO reviewed ADEQ's compliance with the requirements of EPA's non-discrimination regulation,⁹ which sets forth the foundational elements of a recipient's non-discrimination program. These include: continuing notice of non-discrimination under 40 C.F.R. § 7.95; adoption of grievance procedures that assure the prompt and fair resolution of complaints alleging civil rights violations under 40 C.F.R. § 7.90; and the designation of at least one person to coordinate its efforts to comply with its non-discrimination obligations under 40 C.F.R. § 7.85(g).

ECRCO also reviewed the programs, policies, and guidance ADEQ is implementing to ensure it provides meaningful access for persons with limited English proficiency¹⁰ and persons with disabilities¹¹ to all its programs and activities that receive federal financial assistance from EPA, including its public participation process.¹²

As a result of discussions with EPA over the last several months, ADEQ developed a foundational non-discrimination program. As a result of ADEQ's efforts, the ECRCO review found the following:

- a. Notice of Nondiscrimination – EPA's nondiscrimination regulation requires initial and continuing notice that the recipient does not discriminate on the basis of race, color national origin, or disability in a program or activity receiving EPA assistance or, in programs covered by Section 13 of the Education Amendments, on the basis of sex.¹³ ADEQ's main

⁹ 40 C.F.R. Part 7, Subpart D.

¹⁰ On June 25, 2004, EPA issued *Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons* (LEP Guidance). The LEP guidance clarifies recipient's existing legal obligations to provide meaningful access to limited English proficient persons in all programs and activities that receive federal financial assistance from EPA. The LEP guidance also provides a description of the factors recipients should consider in fulfilling their responsibilities to limited English proficient persons to ensure meaningful access to recipients' programs and activities and the criteria EPA uses to evaluate whether recipients are in compliance with Title VI and the Title VI implementing regulation. <https://www.federalregister.gov/documents/2004/06/25/04-14464/guidance-to-environmental-protection-agency-financial-assistance-recipients-regarding-title-vi>.

¹¹ See 40 C.F.R. §§ 7.45 – 7.55, 7.65

¹² On March 21, 2006, EPA published its *Title VI Public Involvement Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs* (Public Involvement Guidance) which was developed for recipients of EPA assistance implementing environmental permitting programs. It discusses various approaches, and suggests tools that recipients may use to enhance the public involvement aspects of their current permitting programs. It also addresses potential issues related to Title VI and EPA's regulation implementing Title VI. https://www.epa.gov/sites/production/files/2013-09/documents/title6_public_involvement_guidance.3.13.13.pdf.

¹³ 40 C.F.R. § 7.95.

website page now contains a “Civil Rights” link¹⁴ to its Notice of Nondiscrimination.¹⁵ In addition, by selecting a language from a drop-down menu, on the web page, the page will display in a number of languages, including Spanish. In addition, ADEQ reports that this Notice is prominently displayed in ADEQ’s offices.¹⁶ The Notice describes the procedures to file a discrimination complaint with ADEQ and how to contact the ADEQ Nondiscrimination Program Coordinator for assistance.

- b. Grievance Procedures - EPA’s nondiscrimination regulation requires that each recipient adopt grievance procedures that assure the prompt and fair resolution of complaints which allege violations of the nondiscrimination regulation.¹⁷ ADEQ’s website contains a Nondiscrimination Policy for Programs, Activities and Services and Grievance Procedures (“Grievance Procedures”)¹⁸ in English and Spanish that can be found by accessing the Civil Rights link on ADEQ’s main web page.¹⁹ The Grievance Procedures describe the process for individuals to file a complaint of discrimination with ADEQ. ADEQ’s Grievance Procedures assure that it promptly and fairly resolves complaints utilizing a preponderance of the evidence standard.²⁰ To initiate the grievance process, ADEQ has developed a complaint form in English and Spanish, which is accessible on its website via a link on the bottom of its main web page.²¹

ADEQ reports that it is developing the capability to accept different types of complaints from individuals against ADEQ directly from its main website page, including complaints under Title VI and other federal nondiscrimination laws, for implementation by late Fall 2017. Currently, ADEQ’s “File A Complaint” option, which is located in the form of a click-button near the top of ADEQ’s main web page only allows individuals to file environmental complaints. ADEQ maintains that once the new customer complaints system is in place, the “File A Complaint” function will clearly inform the public of its ability to file Title VI and other nondiscrimination complaints. This development will also provide more prominent access to civil rights information from ADEQ’s main website page by moving the link to civil rights information further up on the page from the link’s current location.

- c. Nondiscrimination Coordinator – EPA recipients are required to have a nondiscrimination coordinator to oversee their nondiscrimination program.²² On its website, ADEQ has

¹⁴ <http://www.azdeq.gov/>

¹⁵ This notice can be found in ADEQ’s Civil Rights Program Policy, found at <http://www.azdeq.gov/CivilRights> and http://static.azdeq.gov/legal/VI_policy.pdf.

¹⁶ ADEQ Civil Rights Program Policy, at 2, found at http://static.azdeq.gov/legal/VI_policy.pdf.

¹⁷ 40 C.F.R. § 7.90 (each recipient with 15 or more employees shall adopt grievance procedures that assure the prompt and fair resolution of complaints).

¹⁸ Nondiscrimination Policy for Programs, Activities and Services and Grievance Procedures, found at http://static.azdeq.gov/legal/grievance_policy.pdf and http://static.azdeq.gov/legal/grievance_policy_sp.pdf.

¹⁹ <http://www.azdeq.gov/>

²⁰ Grievance Procedures, at 3.1.5.5, found at http://static.azdeq.gov/legal/grievance_policy.pdf

²¹ Title VI Discrimination Complaint Form, at <http://static.azdeq.gov/legal/civilrightsform.pdf> and http://static.azdeq.gov/legal/Civil_Rights_Form_sp.pdf.

²² 40 CFR § 7.85(g) (if a recipient employs 15 or more employees, it must designate at least one nondiscrimination coordinator).

identified Ian Bingham as its Nondiscrimination Coordinator and has provided a contact number and email address for him.²³ Within its Civil Rights Program Policy, ADEQ has confirmed that its Nondiscrimination Coordinator is charged with ensuring ADEQ's compliance with federal non-discrimination laws and ensuring that information regarding ADEQ's Nondiscrimination Program is internally and externally available; maintaining public notice of, and procedures for receipt and processing of complaints; receiving and logging complaints; training department staff on ADEQ's Nondiscrimination Program and procedures; informing complainants about the progress of investigations; and periodically reviewing the efficacy of ADEQ's Nondiscrimination Program.²⁴

- d. Limited English Proficiency (LEP) – ADEQ has developed an LEP policy referencing EPA's LEP Guidance. ADEQ's policy is contained within ADEQ's Civil Rights Program Policy, which is available on its website.²⁵ The LEP policy outlines ADEQ's commitment to provide meaningful access to LEP individuals to its programs and activities. In doing so, ADEQ undertook an analysis of its LEP population within its service area.²⁶ Since ADEQ has identified Spanish speakers as the major LEP language group in Arizona, ADEQ's efforts primarily focus on ensuring key materials and services are available in both English and Spanish.²⁷ ADEQ's Policy also states that it will accommodate the needs of other LEP (non-Spanish speaking) persons through contracts for LEP services.²⁸ To ensure that key materials and services are available to LEP individuals, EPA notes that it is essential provide good guidance and training for managers on the "key materials" that should be translated for purposes of Title VI.
- e. Individuals with Disabilities – In ADEQ's Civil Rights Program Policy, ADEQ describes the analysis it has undertaken of its population who have identified as individuals with disabilities. ADEQ has committed to providing meaningful access to individuals with disabilities to department programs and activities.²⁹ ADEQ states that it provides appropriate auxiliary aids and services to disabled persons who are deaf or hard of hearing and other individuals upon request at no cost to ensure effective communication and an equal opportunity to participate fully in the ADEQ decision making processes.³⁰
- f. Public Participation – ADEQ has developed a public participation policy, which is set forth in its Civil Rights Program Policy. ADEQ states that it strives to provide for meaningful public involvement in all of its programs, no matter the location of the program in the State of Arizona or the community potentially impacted.³¹ ADEQ notes that in order for public involvement to be meaningful, it requires informing, consulting and working with potentially

²³ <http://www.azdeq.gov/CivilRights>

²⁴ ADEQ Civil Rights Program Policy, at 3, found at http://static.azdeq.gov/legal/VI_policy.pdf.

²⁵ *Id.* at 3-4, 5-6 and Attachment D.

²⁶ ADEQ Civil Rights Program Policy, at Attachment D, found at http://static.azdeq.gov/legal/VI_policy.pdf.

²⁷ *Id.* at 4.

²⁸ *Id.* at 5.

²⁹ *Id.* at 3-4, 5-6 and Attachment D.

³⁰ *Id.* at 5.

³¹ *Id.* at 4.

affected communities at various stages of the decision making process in order to understand and address concerns.³²

ADEQ explains that when developing public participation plans, it evaluates the following: community demographics and other statistics; media sources (considering, for example, local media and community groups); need for and location of public meetings considering accessibility and availability of public transportation; and the need for language assistance services for LEP persons and accommodations for persons with disabilities.³³

ADEQ reported that it undertook a demographic analysis of its population and states that its development and distribution of public notices and planning for public meetings/ hearings regarding ADEQ actions considers the LEP and disabled populations in the areas impacted by the ADEQ action or program. ADEQ states that it provides access to phone menu and voicemail options in Spanish, as well as access to Spanish-speaking representatives. It further ensures the availability of key materials and services in Spanish, including compliance and enforcement brochures, compliance training schedule information, TV and radio announcements and newspaper articles and press releases among other materials.

Based on the foregoing, ECRCO has determined that ADEQ's actions taken during the pendency of this complaint regarding its environmental enforcement program, its response to environmental complaints, as well as its nondiscrimination program, as described above, have resulted in significant changes to the overall circumstances since the filing of this complaint. Accordingly, ECRCO finds insufficient evidence of current non-compliance with Title VI and EPA's implementing regulation. Therefore, ECRCO is closing complaint number 03-07-R9 as of the date of this letter.

Closure of Administrative Complaint, EPA File Number 11R-98-R9

The complaint in EPA File Number 11R-98-R9 was filed on October 13, 1998, by Sanford Lewis, on behalf of United Paperworkers International Union (UPI)³⁴ and Jesse McKnight,³⁵ under Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d to 2000d-7 (Title VI), and EPA's implementing regulations at 40 C.F.R. Part 7.³⁶ The complaint generally alleged that Arizona Department of Environmental Quality's (ADEQ) issuance of a permit to Arizona Portland Cement Company in Rillito, now known as CalPortland Cement Rillito Plant (hereinafter referred to as "CalPortland"),³⁷ discriminated against nearby African American and Hispanic residents by causing a disproportionate and adverse risk to residents' health. In

³² *Id.*

³³ ADEQ Public Participation Program Checklist: Title VI Nondiscrimination; ADEQ Civil Rights Program Policy, at 5, found at http://static.azdeq.gov/legal/VI_policy.pdf

³⁴ We note that United Paperworkers International Union withdrew from participation in this complaint in November 2010. Email from Robert Laventure, Director of UPI District 12 to Lynn Agee, Special Counsel, UPI. (November 22, 2010).

³⁵ We also note that Mr. McKnight is now deceased.

³⁶ Consistent with EPA's regulations, ECRCO offered the Complainants and ADEQ the opportunity to pursue a resolution using alternative dispute resolution (ADR). However, the ADR process was unsuccessful.

³⁷ For the purpose of this letter, the facility will be referenced as "CalPortland" or "the Facility".

addition, the complaint alleged that the permit revision process was conducted in a discriminatory manner because it did not allow for adequate participation by key members of the community.³⁸ With respect to the first issue, ECRCO's investigation found that, pursuant to EPA and ADEQ involvement, significant changes in the operation of this facility were made during the course of this investigation. As such, ECRCO finds insufficient evidence of current non-compliance with Title VI and EPA's implementing regulation. With respect to the second issue regarding public participation, ECRCO's investigation found insufficient evidence to conclude that ADEQ violated Title VI and EPA's implementing regulation.³⁹

In conducting the investigation, ECRCO gathered and reviewed information relevant to the complaint. This information included the complaint and supplementary information submitted to ECRCO, information received from ADEQ in response to ECRCO's issuance of two information request letters,⁴⁰ and information received through interviews with the Complainant.

Issue 1: Arizona Department of Environmental Quality's (ADEQ) issuance of a permit to CalPortland discriminated against nearby African American and Hispanic residents by causing a disproportionate and adverse risk to residents' health.

Background

CalPortland is a Portland cement plant, a limestone quarry, and a rock and stone aggregate plant. Portland cement is a fine gray powder that binds sand and aggregate into concrete. At CalPortland, cement is produced from various types of minerals, including limestone, and calcium, silica, alumina, and iron. These materials are ground to a fine powder, blended in specific proportions needed for the final cement product, and heated until partially molten at temperatures of approximately 2,700°F in a precalciner⁴¹ cement kiln to produce a pellet-shaped, glass-hard material called clinker.⁴² The clinker is then ground with gypsum to an extremely fine powder, known as Portland cement.

Subsequent to the filing of this complaint, significant additional permitting, enforcement, and rulemaking actions have been implemented which affect the issues involved in this complaint. The facility's permit has been revised several times in order to implement new requirements to address federal maximum achievable control technology requirements for Portland Cement facilities⁴³ and to add enhanced visibility monitoring requirements resulting from the resolution

³⁸ Acceptance of Administrative Complaint letter from Karen D. Higginbotham, Acting Director, ECRCO, EPA to Mr. Sanford Lewis, Complainant. (December 2001).

³⁹ 40 C.F.R. Part 7, Subpart D.

⁴⁰ Email from Bret Parke, Administrative Counsel, ADEQ to Karen Randolph, ECRCO, US EPA, Re: EPA Administrative Complaint (File No. 11R-98-R9), (November 7, 2011 and February 23, 2012).

⁴¹ The precalciner system is a suspension preheater in which, in addition to the kiln flame, extra fuel is burned in the base of the preheater.

⁴² Technical Support Document for the Proposed Phase 3 Action on the Federal Implementation Plan for the Regional Haze Program in the State of Arizona; Docket No. EPA-R09-AR-2013-0588; Air Division, U.S. EPA Region 9, January 27, 2013. pp 87-90.

⁴³ See 40 C.F.R. Part 63, Subpart LLL.

of ADEQ and/or EPA enforcement actions. As explained further below, both ADEQ and EPA took enforcement actions to address noncompliance at the Rillito facility.

The ADEQ enforcement action resulted in the facility paying \$300,000 in civil penalties; being required to conduct annual performance tests to monitor hazardous air pollutant emissions; taking steps to assess raw materials used in the manufacturing process to ensure no future violations of air pollutant limits; and making improvements to enhance air quality in Rillito by applying dust suppressants to an unpaved community road, installing a heating, cooling, ventilation system and air purifiers in the Rillito Community Center, and offering and providing air purifiers to Rillito residents.⁴⁴

The EPA enforcement action required the facility to pay \$350,000 in civil penalties and required that the facility upgrade older kilns and related operations at its plant to reduce the amount of emissions produced or to shut down the older kilns. With respect to rulemaking, EPA's final Federal Implementation Plan to address Arizona Regional Haze,⁴⁵ which covers the activities of CalPortland, requires the installation of advanced emissions controls (selective non-catalytic reduction) that will reduce emissions at kiln 4 (the main stationary source of emissions at the Rillito facility) by 35 percent by the end of 2018 along with stringent associated monitoring, recordkeeping, and reporting requirements.⁴⁶

Current Status

CalPortland currently consists of four dry process rotary kilns (Kilns 1, 2, 3, and 4) and clinker coolers.⁴⁷ The rock and stone aggregate plant is called the Twin Peaks Rock and Stone Aggregate Plant. Particulate emissions are generated throughout the facility from numerous stationary and mobile operations. Particulate emissions also result from fugitive dust generated by activities such as material handling, open storage of materials, rock crushing, paved and unpaved road traffic, and quarry drilling and blasting. The facility uses baghouses and dust collectors throughout its facility, including on Kilns 1- 4, to control particulate emissions. Baghouses and dust collectors are forms of fabric filters used for controlling particulate emissions at efficiencies greater than 98 percent. Kilns 1, 2 and 3 are long kilns, and currently rely on good combustion practices to control NOX emissions. Kiln 4 is a preheater/precalciner kiln. Preheater/precalciner kilns generally use inherent low NOX design features. NOX emissions from Kiln 4 are controlled by low NOx burners with indirect firing and preheater riser duct firing. Preheater riser duct firing is applicable to preheater/precalciner kilns.⁴⁸

⁴⁴ Consent Judgement (Non-classified Civil), Civil Action No. CV2006-016354 (Nov. 7, 2006).

⁴⁵ See 79 Fed. Reg. 52420 (Sept. 3, 2014)

⁴⁶ *Id.*

⁴⁷ Technical Support Document for the Proposed Phase 3 Action on the Federal Implementation Plan for the Regional Haze Program in the State of Arizona; Docket No. EPA-R09-AR-2013-0588; Air Division, U.S. EPA Region 9, January 27, 2013. pp 87-90.

⁴⁸ See 79 Fed. Reg. 9354-9356 (Feb. 18, 2014). For additional detail, see also Technical Support Document for the Proposed Phase 3 Action on the Federal Implementation Plan for the Regional Haze Program in the State of Arizona; Docket No. EPA-R09-AR-2013-0588; Air Division, U.S. EPA Region 9, January 27, 2013. pp 87-90.

According to the Title V operating permit issued by ADEQ, CalPortland's existing kilns 1, 2, 3, and 4 are capable of using a variety of fuels, including solid fuels (coal and petroleum coke), fuel oils, and natural gas. Kiln 4 is also designed to use and has historically used supplemental fuels such as shredded tires and wood chips. Kilns 1-3 have not been operated since early 2008. Emissions that result from the manufacturing of Portland cement at the Rillito Plant include particulates, nitrogen oxides (NOX), and sulfur dioxide (SO₂), and volatile organic compounds (VOC). Virtually all of the NOX and SO₂ emissions, as well as the majority of the particulate emissions, are generated from the kiln systems. A negligible amount of NOX and SO₂ are generated from ancillary combustion equipment at the facility. The facility-wide SO₂ emissions are minimal.⁴⁹

Based on the foregoing, ECRCO has determined that the permitting, enforcement, and rulemaking activities undertaken since the filing of this complaint, including ADEQ's enforcement actions involving the CalPortland facility, have resulted in significant changes to the overall circumstances, including the adverse health risks to residents, alleged in the original complaint. Accordingly, ECRCO finds insufficient evidence of current non-compliance with Title VI and EPA's implementing regulation.

Issue 2: Lack of Public Participation by Key Members of the Community

ECRCO found that, in 1998,⁵⁰ CalPortland (then Arizona Portland Cement Company or "APCC") applied to ADEQ for a modification of its Air Quality Control Permit for the modernization of its cement manufacturing facility. At the time, the facility included a limestone quarry, a Portland cement manufacturing plant, and a rock and stone aggregate plant.⁵¹ ADEQ Arizona Air Pollution Control regulations, then and currently, require an applicant to post notice of the proposed permit at the site where the source is or may be located. The notice must include technical information and notice of a public hearing, if one is to be held.⁵²

On June 5, 1998, the facility posted a copy of the public notice announcement at the front entrance of its facility, adjacent to the nearest public roadway.⁵³ The notice stated that ADEQ was proposing to issue Air Quality Control Permit Number 1000547 to the facility for the modernization of their cement manufacturing facility located at 1115 N. Casa Grande Highway, Pima County, Arizona. The notice provided technical information about the proposed permit revision, as well as information on the opportunity to submit public comments in writing and orally, including the time and place for the public hearing.⁵⁴

⁴⁹ *Id.*

⁵⁰ *See*

<https://yosemite.epa.gov/R9/air/EPSS.NSF/bd42b872ddae5603882561b0006d69c1/de770204f323e08507256640005c058e!OpenDocument>.

⁵¹ http://www.azdeq.gov/enviro/air/permits/title_v/CP/47259/deqsupport.pdf

⁵² Arizona Administrative Code Title 18, Chapter 2, Rule 330(F) (2007).

⁵³ Arizona Portland Cement Company Fax Transmittal Cover Sheet regarding RIMOD III Public Notice Sign with copies of pictures taken of the Public Notice sign near the front entrance of the facility. (July 1, 1998).

⁵⁴ Copy of the Public Notice placed in the *Arizona Daily Star* newspaper (June 5 and 12, 1998).

ECRCO found that, at the time (and currently), ADEQ's public participation regulations for air pollution control permits and permit revisions included provisions regarding the public notice process, when to schedule and conduct public hearings, and the requirement to respond to all comments received.⁵⁵ The regulations specifically required ADEQ to provide public notice of a completed application for permits to construct or make a major modification to major sources by publishing notice in two newspapers of general circulation in the county where the source is or will be located.⁵⁶

On June 2, 1998, ADEQ sent a letter to the Rillito Post Office requesting that copies of the following documents related to the facility and related permits be posted for public review: 1) Public Notice for a Public Hearing; 2) the permit application with supporting documents; and 3) the draft permit with supporting documents and applicable rules. ADEQ asked that these materials be kept where they would be available for viewing by the public and indicated that it would inform the Post Office when to discard the information.⁵⁷

At the time (and currently), ADEQ's regulations required ADEQ to provide at least 30 days from the date of its first notice for public comment. Further, ADEQ must prepare written responses to all comments received.⁵⁸ On July 6, 1998, ADEQ held a public hearing regarding the proposed modification of the facility's permit revision. The hearing was held at Marana Junior High School in Marana, Arizona. A total of 14 members of the public who attended asked questions during the hearing, including the complainant, Mr. Jesse McKnight. Before the public hearing concluded, the moderator asked the audience several times whether anyone else wished to speak.⁵⁹ The hearing commenced at 7:12 p.m. and concluded at 8:30 p.m.⁶⁰ After all comments were heard at the July 6, 1998 public hearing, ADEQ encouraged attendees to submit written comments to ADEQ, postmarked by July 10, 1998. In addition, ADEQ provided information about how individuals could submit written comments.⁶¹

On July 10, 1998, the Pima County Board of Supervisors, representing the citizens in the vicinity of the facility, requested that ADEQ extend the public comment period to July 17, 1998, to allow them sufficient time to complete an evaluation of the permit and formally submit comments on the proposed APCC permit revision.⁶² Per the Pima County Board of Supervisors' request, ADEQ extended the review period and accepted written comments, questions, and objections regarding the proposed reissuance of the APCC permit until July 17, 1998.⁶³ On August 7, 1998, ADEQ prepared a document entitled "Responsiveness Summary, Significant Revision No.

⁵⁵ Arizona Administrative Code Title 18, Chapter 2, Rule 330 (2007).

⁵⁶ Arizona Administrative Code Title 18, Chapter 2, Rule 330(B)(C)(D) (2007).

⁵⁷ Letter from Joie L. Estrada, Administrative Secretary, Air Quality Division/Permits Section, ADEQ to Rillito Post Office (June 2, 1998). *See also* Arizona Administrative Code Title 18, Chapter 2, Rule 330 (2007).

⁵⁸ Arizona Administrative Code Title 18, Chapter 2, Rule 330(G) (2007).

⁵⁹ Arizona Portland Cement Company Public Hearing Summary at 7, 13, 14 (July 6, 1998).

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² Letter from Sharon Bronson, Pima County Supervisor, District 3 to Ms. Nancy C. Wrona, Director, Air Quality Division, ADEQ (July 10, 1998).

⁶³ Responsiveness Summary, Significant Revision No. 10000547 to Air Quality Control Permit No. M191365P1-99 for Arizona Portland Cement Company Arizona Portland Cement Company.

1000547, to Air Quality Control Permit No. M191365P1-99 for Arizona Portland Cement Company.” ADEQ provided copies of the Responsiveness Summary to the parties who participated in the comment period.⁶⁴

The Responsiveness Summary categorized comments received and provided summary responses to written comments and the comments voiced at the July 6, 1998 public hearing.⁶⁵ On August 24, 1998, ADEQ mailed to the participants in the public comment period a Revised Permit package that contained the Revised Permit Certificate, Responsiveness Summary, and Revised Permit.⁶⁶

In sum, based on ECRCO’s review of the record, it appears that all members of the public had (1) notice of the permit revision and related hearing; (2) an opportunity to comment at the hearing; (3) an opportunity to submit written comments, in a comment period that ADEQ extended by request; and (4) an opportunity to review ADEQ’s response to all comments received. Notably, adherence to the requirements in the Arizona Administrative Code alone does not necessarily fulfill ADEQ’s obligation to provide equal opportunity for public participation under Title VI. Here, however, ECRCO found that the facts regarding public participation for this permit revision indicate that ADEQ’s process did provide all members of the public with the same access to detailed, specific information about the proposed permit, as well as the process to voice objections to that permit.

Accordingly, ECRCO has determined that there is insufficient evidence to support the allegation that key members of the community were denied access to public participation and that ADEQ violated Title VI and EPA’s implementing regulation with respect to the public participation issue.

Based on the foregoing analysis of both issues raised in this complaint, ECRCO is closing complaint number 11R-98-R9 as of the date of this letter. This letter sets forth EPA’s disposition of the two referenced complaints. This letter is not a formal statement of EPA policy and should not be relied upon, cited, or construed as such.

EPA appreciates ADEQ’s cooperation in this matter, ADEQ’s work to address air quality issues in the State, and ADEQ’s efforts to ensure that ADEQ has in place the appropriate foundational

⁶⁴ Letter from Sharon Bronson, Pima County Supervisor, District 3 to Ms. Nancy C. Wrona, Director, Air Quality Division, ADEQ (July 10, 1998).

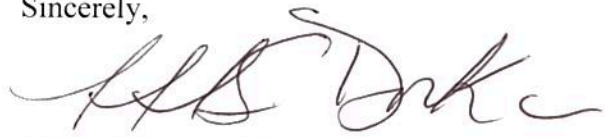
⁶⁵ Responsiveness Summary, Significant Revision No. 10000547 to Air Quality Control Permit No. M191365P1-99 for Arizona Portland Cement Company Arizona Portland Cement Company.

⁶⁶ Email from Bret Parke, Administrative Counsel, ADEQ to Karen Randolph, ECRCO, US EPA, Re: EPA Administrative Complaint (File No. 11R-98-R9), (February 23, 2012). *See* ADEQ’s Response to Appellants’ Cross Motion for Determination that Permit Revision is Void (November 9, 1998).

Misael Cabrera, Director

elements of a non-discrimination program. Please do not hesitate to contact me at (202) 564-9649, or at Dorka.Lilian@epa.gov, regarding any questions or requests for further technical assistance.

Sincerely,

A handwritten signature in dark ink, appearing to read 'LSDorka', with a stylized flourish at the end.

Lilian S. Dorka, Director
External Civil Rights Compliance Office
Office of General Counsel

Cc:

Kenneth Redden
Acting Associate General Counsel
Civil Rights and Finance Law Office

Deborah Jordan
Acting Deputy Regional Administrator
Acting Deputy Civil Rights Official
EPA, Region 9

Application for Federal Assistance SF-424

* 1. Type of Submission:

- ☐ Preapplication
☒ Application
☐ Changed/Corrected Application

* 2. Type of Application:

- ☒ New
☐ Continuation
☐ Revision

* If Revision, select appropriate letter(s):

* Other (Specify):

* 3. Date Received:

12/03/2019

4. Applicant Identifier:

5a. Federal Entity Identifier:

5b. Federal Award Identifier:

State Use Only:

6. Date Received by State:

7. State Application Identifier:

8. APPLICANT INFORMATION:

* a. Legal Name: Arizona Department of Environmental Quality

* b. Employer/Taxpayer Identification Number (EIN/TIN):

* c. Organizational DUNS:

8049153120000

d. Address:

* Street1:

1110 West Washington Street

Street2:

* City:

Phoenix

County/Parish:

* State:

AZ: Arizona

Province:

* Country:

USA: UNITED STATES

* Zip / Postal Code:

85007-2955

e. Organizational Unit:

Department Name:

AZ Dept Environmental Quality

Division Name:

Waste Programs Division

f. Name and contact information of person to be contacted on matters involving this application:

Prefix:

Mr.

* First Name:

Travis

Middle Name:

* Last Name:

Barnum

Suffix:

Title: Brownfields Coordinator

Organizational Affiliation:

Waste Programs Division, ADEQ

* Telephone Number:

602-771-2296

Fax Number:

* Email: barnum.travis@azdeq.gov

Application for Federal Assistance SF-424

* 9. Type of Applicant 1: Select Applicant Type:

A: State Government

Type of Applicant 2: Select Applicant Type:

Type of Applicant 3: Select Applicant Type:

* Other (specify):

* 10. Name of Federal Agency:

Environmental Protection Agency

11. Catalog of Federal Domestic Assistance Number:

66.818

CFDA Title:

Brownfields Assessment and Cleanup Cooperative Agreements

* 12. Funding Opportunity Number:

EPA-OLEM-OBLR-19-05

* Title:

FY20 GUIDELINES FOR BROWNFIELD ASSESSMENT GRANTS

13. Competition Identification Number:

Title:

14. Areas Affected by Project (Cities, Counties, States, etc.):

Add Attachment

Delete Attachment

View Attachment

* 15. Descriptive Title of Applicant's Project:

Brownfield Assessment Grant FY20

Attach supporting documents as specified in agency instructions.

Add Attachments

Delete Attachments

View Attachments

Application for Federal Assistance SF-424**16. Congressional Districts Of:**

* a. Applicant

007

* b. Program/Project

AZ-ALL

Attach an additional list of Program/Project Congressional Districts if needed.

Add Attachment

Delete Attachment

View Attachment

17. Proposed Project:

* a. Start Date:

10/01/2020

* b. End Date:

09/30/2023

18. Estimated Funding (\$):

* a. Federal

300,000.00

* b. Applicant

0.00

* c. State

0.00

* d. Local

0.00

* e. Other

0.00

* f. Program Income

0.00

* g. TOTAL

300,000.00

*** 19. Is Application Subject to Review By State Under Executive Order 12372 Process?**☒ a. This application was made available to the State under the Executive Order 12372 Process for review on

11/18/2019

☐ b. Program is subject to E.O. 12372 but has not been selected by the State for review.☐ c. Program is not covered by E.O. 12372.*** 20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes," provide explanation in attachment.)**☐ Yes☒ No

If "Yes", provide explanation and attach

Add Attachment

Delete Attachment

View Attachment

21. *By signing this application, I certify (1) to the statements contained in the list of certifications and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances** and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 218, Section 1001)**

☒ ** I AGREE

** The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions.

Authorized Representative:

Prefix:

Mrs.

* First Name:

Laura

Middle Name:

* Last Name:

Malone

Suffix:

* Title:

Director, Waste Programs Division

* Telephone Number:

602-771-4567

Fax Number:

* Email:

malone.laura@azdeq.gov

* Signature of Authorized Representative:

Brett James

* Date Signed:

12/03/2019